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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

IN THE MATTER OF THE	:	
COMPLAINT OF CONTI 11.	:	Index No. 12-cv-08892-(AJN)
CONTAINER SCHIFFAHRTS-GMBH &	:	
CO, KG MS "MSC FLAMINIA", AS	:	
OWNER, AND NSB NIEDERELBE	:	<b>AMENDED STOLT CARGO</b>
SCHIFFAHRTSGESELLSCHAFT MBH	:	<b>INTERESTS'</b>
& CO. KG, AS OPERATOR, OF THE MSC	:	<b>THIRD-PARTY</b>
FLAMINIA FOR EXONERATION	:	<b>COMPLAINT AGAINST</b>
FROM OR LIMITATION OF LIABILITY,	:	<b>PANALPINA INC.</b>
	:	
Plaintiffs.	:	
	:	
NATIONAL UNION FIRE INSURANCE CO.	:	
OF PITTSBURGH, PA, AND	:	
STOLT CARGO INTERESTS	:	
Third-Party Plaintiffs	:	
	:	
v.	:	
PANALPINA INC.	:	
Third Party Defendant	:	

Third Party Plaintiffs ("Claimants"), Stolt Tank Containers B.V., Stolt Tank Containers France SAS, Stolt Nielsen USA, Inc., Stolt Tank Containers Germany GMBH, and National Union Fire Insurance Co. of Pittsburgh, PA, in its capacity as subrogee, as named plaintiffs in 1:13-CV-1610 and as answering claimants in 1:12-CV-8992 ("Stolt Cargo Interests"), with respect to the claims asserted by the Stolt Cargo Interests in 1:13-CV-1610, and herein, and with respect to claims for contributions in General Average, including those claims for General Average Contribution presently asserted against Stolt Tank Containers, B.V. by CONTI in Docket Documents 127, 131 and 133, and/or as on the attached Schedule A, by their attorneys, Mendes & Mount, LLP, ("Stolt Cargo Interests"), hereby amend their Third Party Complaint

filed on April 11, 2014 (Document No. 461)<sup>1</sup> and allege the following claims against Third Party Defendant, Panalpina Inc. (hereinafter, “Panalpina”), upon information and belief:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and the action falls within the Court’s subject matter jurisdiction pursuant to 28 U.S.C. §1333.

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1367, as these third party claims are related to the claims in the original civil action in that they form part of the same case of controversy.

3. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §1391(b)(3) and Fed.R.Civ.P. 4 (k)(1)(B) in that the third-party defendant is subject to this Court’s personal jurisdiction with respect to this action.

4. At all relevant times, Claimants were and still are corporations or other legal entities organized and with offices and places of business as shown in the pleadings.

5. At all relevant times, Panalpina, Inc. was and is a corporation or other business entity organized and existing under the laws of the United States with a principal place of business at 1776 On The Green, 67 Park Place, Morristown, New Jersey 07960;

6. Panalpina, Inc. operates as a Freight Forwarder (FMC License No. 375-F) and also as the U.S. resident agent for Panalpina’s global NVOCC, Pantainer (H.K.) Limited (Org No. 023561).

7. This Third-Party Complaint is filed pursuant to Federal Rule of Civil Procedure 14(c). A copy of Plaintiff’s counterclaims against Stolt Tank Containers, BV and Stolt Nielsen, USA, Inc. is attached to the separately filed and served Third Party Complaint of Stolt Tank

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<sup>1</sup> This Amended Third Party Complaint of Stolt Cargo Interests withdraws, on a without prejudice basis, the original third party complaint against Panalpina World Transport, Ltd.

Containers, BV and Stolt Nielsen, USA, Inc. Third Party Plaintiffs demand judgment in Plaintiffs' favor against Third Party Defendant as the evidence warrants.

8. Upon information and belief, Panalpina was and now is engaged in business as a freight forwarder and shipped or handled Divinylbenzene ("DVB") cargo carried aboard the M/V MSC Flaminia (the "Vessel") on the relevant voyage.

9. Claimants were the owners, operators, lessors, lessees, bailors, bailees, insurers, and/or otherwise interested parties in cargo and/or property carried on the Vessel that has either not been delivered in the same order and condition in which it was received and have been called upon to guarantee and to pay alleged salvage claims and general Average expenses, or were entities who are or may be alleged to be liable for certain of the cargo and/or property.

10. It is alleged in this proceeding by various parties that the DVB cargoes for which Panalpina acted as freight forwarder, shipped or handled, constituted goods of a dangerous, inflammable, and explosive nature, that the DVB cargoes caused or contributed to an explosion with resultant severe damage to Claimants' cargo and/or property on the Vessel, and that by reason of the explosion and/or fire of the cargo of DVB, Claimants suffered direct and indirect damage in the form of loss of and destruction of their cargo and/or property, actual or alleged salvage or General Average liability(s) and expenses, direct claims for damage to cargo and/or property, claims for indemnity or contribution from parties who have claimed against Claimants beyond this lawsuit in the United States and abroad, all in amounts not yet qualified.

11. Claimants deny Plaintiffs' allegations against them, deny any and all liability with respect to, arising out of, arising from, and/or in connection with the casualty and, therefore, deny any liability to Plaintiffs.

12. If, Panalpina is responsible as alleged, Panalpina is liable to Claimants for all losses and damages they have or will suffer including loss or damage suffered to their cargo

and/or property, and also in the event Claimants are liable to any other party in the United States or in any foreign country arising out of or relating to the Flaminia casualty including for cargo loss or damage or contribution in General Average or salvage (said liabilities being specifically denied), then such liability producing conduct or omission of Panalpina, or its respective officers, agents, servants, or employees, entitling Claimants to be granted full recovery from, over and against, and be indemnified by, or entitled to contribution from, Panalpina for all such losses and sums in addition to attorneys' fees, expenses, interest, and costs incurred with respect to this and all other proceedings.

**WHEREFORE**, Third Party Plaintiffs pray:

a. that judgment be entered in favor of Third Party Plaintiffs against Panalpina Inc. for all sums, losses and liabilities plus all attorneys' fees, expenses, interest, and costs incurred or to be incurred including, but not limited to, the costs of posting security for General Average or for salvage, contribution paid in General Average or salvage award, or that they are obliged to pay to other parties herein or otherwise, together with attorneys' fees, costs, and disbursements of this action; and

b. that judgment be entered in Plaintiffs' favor against Third Party Defendant for all claim made by Plaintiffs' and all others who claim against this Third Party Plaintiff; and

c. that judgment be entered in favor of Third Party Plaintiffs for such other and further relief as the Court deems just and proper.

Dated: May 2, 2014

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**Schedule "A" – Stolt Cargo Interests  
National Union of Pittsburgh, PA , et. al.**

<b>Container # MSC B/L#</b>	<b>Stolt Cargo Claimants Addresses</b>	<b>POL</b>	<b>POD</b>	<b>Claim</b>	<b>Number of 20TK</b>
SNTU 4002376 <u>SNTU 4003074</u> MSCUMQ022867	Stolt Tank Containers BV Houston, TX (STC -HOU) Stolt Tank Containers Germany GMBH Hamburg, Germany (STCG)	Charleston	Antwerp	\$50,000	2
CRXU 8520732 <u>TASU 2110216</u> MSCUMQ022941	STC – HOU STCG	Charleston	Antwerp	\$50,000	2
<u>SNTU 7000649</u> MSCUOE639577	STC – HOU Stolt Tank Containers France SAS, La Havre (STCF)	New Orleans	La Havre	\$25,000	1
UTCU 4590019 <u>OSEU 9000080</u> MSCUOE639585	STC- HOU STCF	New Orleans	La Havre	\$50,000	2
<u>EXXU 9993502</u> MSCUOE639833	STC – HOU  STCF	New Orleans	La Havre	\$25,000	1
SNTU 7016218 <u>ICTU 2401333</u> MSCUOE639858	STC HOU STCF	New Orleans	La Havre	\$50,000	2
<u>UTCU 4615210</u> MSCUOE640351	STC HOU Stolt Tank Containers B.V. Rotterdam, The Netherlands (STCN)	New Orleans	Antwerp	\$25,000	1
<u>UTCU 4733737</u> MSCUOE640393	STC – HOU STCN	New Orleans	Antwerp	\$25,000	1
<u>UTCU 4597013</u> MSCUOE640450	STC – HOU STCN	New Orleans	La Havre	\$25,000	1
<u>PRFU 4548813</u> MSCUOE640880	STC - HOU STCF	New Orleans	La Havre	\$25,000	1
<u>EXXU 9980336</u> MSCUOE640922	STC-HOU STCF	New Orleans	La Havre	\$25,000	1
UTCU 4553714 UTCU 4714280 UTCU 4622929 SNTU 7005110 SNTU 7202845 EXFU 0516975 USPU 1240166 MSCUOE641045	Stolt Nielsen, USA, Inc. Houston, TX (SN)  STCF	New Orleans	La Havre	\$175,000	7

<b>Container # MSC B/L#</b>	<b>Stolt Cargo Claimants Addresses</b>	<b>POL</b>	<b>POD</b>	<b>Claim</b>	<b>Number of 20TK</b>
<u>UTCU 4694538</u> MSCUOE642241	STC-HOU Stolt Tank Containers, BV Romford, Essex England (STC-Eng)	New Orleans	Felixstowe	\$25,000	1
<u>USPU1235792</u> MSCUT8102208	STC-HOU STCN	Savannah	Antwerp	\$25,000	1
UTCU 4710686 UTCU 4712098 EXXU 9997365 SWTU 2241364 <u>UTCU 4666686</u> MSCUT8103404	STC – HOU STCN	Savannah	Antwerp	\$125,000	5
<b>Grand Total</b>				<b>\$ 725,000</b>	<b>29</b>

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